



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JAN 07 2010

REPLY TO THE ATTENTION OF:

E-19J

Robert F. Tally, Jr., Division Administrator
Federal Highway Administration - Indiana Division
575 North Pennsylvania St., Room 254
Indianapolis, IN 46204

Michael W. Reed, Commissioner
Indiana Department of Transportation
100 North Senate Ave., Room N642
Indianapolis, Indiana 46204

**RE: I-69 Evansville to Indianapolis, Tier 2 Final Environmental Impact
Statement for Section 3: Washington to Crane Naval Surface Warfare
Center (NSWC), Indiana. CEQ No. 20090420**

Dear Mr. Tally and Mr. Reed:

The U.S. Environmental Protection Agency (EPA) has reviewed the Tier 2 Final Environmental Impact Statement (FEIS) for Section 3 of the I-69 Indianapolis to Evansville, Indiana project. We offer our comments under the National Environmental Policy Act (NEPA), and Section 309 of the Clean Air Act. This letter provides EPA comments regarding the Section 3 Tier 2 FEIS. In addition, we provide additional recommendations for information to include in future I-69 Tier 2 EISs.

The Section 3 Tier 2 FEIS is the second of six Tier 2 FEISs submitted for our review for the Federal Highway Administration (FHWA) and the Indiana Department of Transportation's (INDOT) proposed 142-mile-long I-69 (Evansville to Indianapolis) project. I-69 is currently proposed as a freeway facility that utilizes interchanges for access control.

Section 3 is located between US 50 and US 231 and is approximately 25.73 miles in length. The Section 3 Tier 2 FEIS Refined Preferred Alternative 1, is comprised of refined DEIS Preferred Alternative 1 Segments 3A-3, 3B-2 Modified, 3C-3, 3D-3, and 3E-1. It includes a tight-diamond interchange at US 231, an interchange at SR 58, a designated rest area at County Road (CR) 1100 N in Daviess County, and a number of overpasses and local access roads. INDOT proposes to defer construction and acquisition of the right-of-way for the rest area. The FEIS identifies that the impacts associated with INDOT's intention to make improvements to US 231 south of I-69 with the addition of a

southbound truck climbing lane are included as part of the FEIS Refined Preferred Alternative 1 impacts.

EPA reviewed the I-69 Tier 2 Draft EIS (DEIS) for Section 3 and rated it “Lack of Objections” in our letter dated June 8, 2009. We found the DEIS to be informative, reflecting efforts by FHWA/INDOT to use adequate detailed information in the development of this project to avoid and minimize impacts. We are pleased that, since the DEIS, INDOT has further reduce impacts to streams, forests, wetlands and floodplains with the FEIS Refined Preferred Alternative 1. The list of substantive changes between the DEIS and the FEIS provided at the beginning of each FEIS chapter was very helpful in expediting our FEIS review. We continue to recommend this format be used in all future I-69 Tier 2 EISs.

Our DEIS comments advised on voluntary measures in the areas of air quality, air quality mitigation during construction, floodplains, noise, watersheds and wetlands. The information in the FEIS is generally responsive to many of our recommendations. For example, the FEIS includes the air quality conformity finding and supporting documentation, and provides an explanation for why bridging of an entire floodplain for every waterway crossing is not proposed. We commend INDOT for committing to incorporate two wildlife crossings at Doan’s Creek (US 231) and First Creek during Section 3 final design. We are pleased that impacts to vegetated wetlands have been reduced to 5 acres and open water impacts reduced to 2.2 acres. There is ample compensatory mitigation being proposed for unavoidable wetlands losses and upland forest losses. The proposed mitigation sites also contain stream mitigation areas.

We are disappointed that FHWA/INDOT do not propose to do more to reduce diesel particulate during Section 3 construction as we recommended in our DEIS comment letter. We realize that Greene County does not have a lot of residents nor high concentrations of particulate. Please keep in mind for future I-69 projects that EPA will be more concerned about areas around Indianapolis with high populations and current particulate levels near the standard.

In addition, our FEIS review finds that the main text in Volume I does not included some of the clarifications that FEIS Volume III, Part A - Comments and Responses Section claim were made to the Volume I text. For example Responses to [EPA] Comment AF002-9, the Volume I text regarding cranberry production has not been removed (page 5-309) and clarification regarding EPA’s review of jurisdictional determinations made by the U.S. Army Corps of Engineers under our Clean Water Act (CWA) authority was not included in Volume I, Sections S.13.1, 5.23.2 and 7.3.9. In addition, EPA does not have oversight of the State Section 401 water quality certification process, as indicated in Section 5.23.3. We recommend the Tier 2 Section 3 Record of Decision (ROD) acknowledge these FEIS Volume 1 oversights.

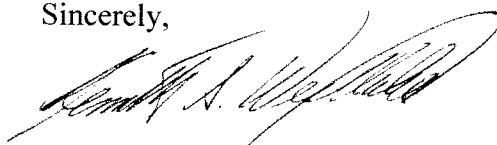
We are pleased to see that FHWA/INDOT continue to provide a running tally of direct impacts associated with the entire 142-mile-long I-69 Indianapolis to Evansville alignment identified in each section’s Tier 2 studies. Appendix Z of the Section 3 Tier 2

FEIS provides the running tally to date for a limited number of impact categories. We note that stream impacts and karst features impacts categories are not currently included in the tracking tables in Appendix Z. We continue to request FHWA/INDOT include stream impacts and karst features impacts categories as part of the running tally in all future I-69 Tier 2 EISs for Sections 2, 4, 5 and 6.

The FEIS identifies that an overall impacts/permitting/tracking method is being developed in consultation with permitting agencies and EPA. The FEIS also states that INDOT will coordinate with agencies to identify agency-specific information to be included in the database for tracking and will provide to permitting agencies and EPA a tracking summary on an annual basis. The summary will identify the permitting and mitigation commitments and describe the status of the activities to date associated with each commitment. We recommend the Section 3 Tier 2 ROD and all future I-69 Tier 2 EISs disclose the details of the mitigation tracking method developed in consultation with EPA and the other agencies. If this is not possible, at this time, then the Section 3 Tier 2 ROD should identify when the specifics of the final tracking method will be developed and disclosed to the agencies and the public.

Thank you for the opportunity to comment. If you have any questions about EPA's comments, please contact Virginia Laszewski at 312-886-7501 or email her at laszewski.virginia@epa.gov. Please send us a copy of the I-69 Tier 2 Section 3 ROD when it is available.

Sincerely,



Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

cc: U.S. Army Corps of Engineers – Louisville District, Attention: CELRL-OP-F,
P.O. Box 59, Louisville, KY 40401-0059 (Greg McKay/Deb Snyder)
U.S. Fish and Wildlife Service, Region 3, Bloomington Ecological Services
Office, 620 S. Walker Street, Bloomington, IN 47403-2121 (Scott Pruitt/
Robin McWilliams Munson)
Indiana Department of Environmental Management, Office of Water Quality,
Section 401 Water Quality Certification Program, 100 N. Senate Avenue,
MC 65-40, Indianapolis, IN 46204-2251 (Jason Randolph, South Area
Project Manager)
Indiana Department of Natural Resources, 402 W. Washington St., Rm W264,
Indianapolis, IN 46204 (Matt Buffington)